

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE OPTICAL DISK DRIVE
ANTITRUST LITIGATION**

Case No. 3:10-md-02143 RS

MDL No. 2143

This Document Relates to:

ALL DIRECT PURCHASER ACTIONS

**~~[PROPOSED]~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT WITH HLDS DEFENDANTS**

Date: September 20, 2013
Time: 10:00 a.m.
Judge: Honorable Richard Seeborg
Courtroom: 3, 17th Floor

1 On August 29, 2013, Direct Purchaser Plaintiffs (“Plaintiffs”) filed a Memorandum of
2 Points and Authorities in Support of Final Approval of Class Action Settlement with HLDS
3 Defendants. The Court, having reviewed the memorandum, the settlement agreement, the pleadings
4 and other papers on file in this action, and the statements of counsel and the parties, hereby finds
5 that final approval of the Settlement should be GRANTED.

6 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

7 1. The Court has jurisdiction over the subject matter of the Action and over all parties
8 to the Settlement Agreement (the “Agreement”) and to the Stipulations of Dismissals with
9 Prejudice attached thereto, including all members of the Class.

10 2. For purposes of this Order, except as otherwise set forth herein, the Court adopts
11 and incorporates the definitions contained in the Settlement Agreement.

12 3. Pursuant to Fed. R. Civ. P. 23(g), Saveri & Saveri, Inc. is appointed as counsel for
13 the Class. Saveri & Saveri, Inc. has and will fairly and competently represent the interests of the
14 Class.

15 4. By Order dated March 22, 2013 (Dkt. No. 798), the Court certified for settlement a
16 class defined as follows:

17 All individuals and entities who, during the period from January 1,
18 2004 through December 31, 2011 (the “Class Period”), purchased
19 Optical Disk Drives and Optical Disk Drive Devices in the United
20 States directly from the Defendants, their subsidiaries, or their
affiliates. Excluded from the Class are defendants and their
parents, subsidiaries, affiliates, and all governmental entities.

21 5. The persons/entities identified in Exhibit C to the Declaration of Markham
22 Sherwood in Support of Final Approval of Class Action Settlement with HLDS filed on August 29,
23 2013, have timely and validly requested exclusion from the Class and, therefore, are excluded.
24 Such persons/entities are not included in or bound by this Order. Such persons/entities are not
25 entitled to any recovery of the settlement proceeds obtained through the HLDS Settlement
26 Agreement.

1 6. The settlement class definition as set forth above and as used in this Order is for
2 settlement purposes only. It has no binding effect on the Court, on the indirect-purchaser plaintiffs,
3 or on the Non-Released Defendants for any other purpose, including but not limited to the filing or
4 resolution of any upcoming motion(s) for class certification pursuant to Fed. R. Civ. Proc. 23.

5 7. The Court hereby finally approves and confirms the settlement set forth in the
6 Agreement and finds that said settlement is, in all respects, fair, reasonable and adequate to the
7 Class pursuant to Rule 23 of the Federal Rules of Civil Procedure.

8 8. This Court hereby dismisses on the merits and with prejudice the Action in favor of
9 HLDS, LG Electronics, Inc., LG Electronics USA, Inc. (collectively, "LG"), and Hitachi, Ltd.
10 ("Hitachi") (collectively, "Released Defendants"), with each party to bear their own costs and
11 attorneys' fees.

12 9. The Released Defendants are hereby and forever released and discharged with
13 respect to any and all claims or causes of action which the Releasors had or have arising out of or
14 related to any of the Released Claims as defined in the Agreement.

15 10. The notice given to the Class of the settlement was the best notice practicable
16 under the circumstances, including individual notice to all members of the Class who could be
17 identified through reasonable efforts. Said notice provided due and adequate notice of those
18 proceedings and of the matters set forth therein, including the proposed settlement set forth in the
19 Settlement Agreement, to all persons entitled to such notice, and said notice fully satisfied the
20 requirements of Rules 23(c)(2) and 23(e)(1) of the Federal Rules of Civil Procedure and the
21 requirements of due process.

22 11. The Plan of Allocation set forth in the Class notices is, in all respects, fair,
23 adequate, and reasonable. Accordingly, the Court hereby grants final approval of the Plan of
24 Allocation.

25 12. Without affecting the finality of the Judgments in any way, this Court hereby
26 retains continuing jurisdiction over: (a) implementation of this settlement and any distribution to
27 Class members pursuant to further orders of this Court; (b) disposition of the Settlement Fund; (c)

1 hearing and determining applications by Plaintiffs' counsel for attorneys' fees, costs, expenses,
 2 and interest; (d) the Action until the Final Judgments contemplated hereby have become effective
 3 and each and every act agreed to be performed by the parties all have been performed pursuant to
 4 the Agreement; (e) hearing and ruling on any matters relating to the Plan of Allocation of
 5 settlement proceeds; and (f) all parties to the Action and Releasors for the purpose of enforcing
 6 and administering the Agreement and the mutual releases and other documents contemplated by,
 7 or executed in connection with the Agreement.


8 13. In the event that the settlement does not become effective in accordance with the
 9 terms of the Settlement Agreement, then the Judgments shall be rendered null and void and shall
 10 be vacated, and in such event, all orders entered and releases delivered in connection herewith
 11 shall be null and void and the parties shall be returned to their respective positions *ex ante*.

12 14. The Court finds, pursuant to Rules 54(a) and (b) of the Federal Rules of Civil
 13 Procedure, that Final Judgments of Dismissal with prejudice as to HLDS, LG, and Hitachi
 14 ("Judgments" or "Judgments of Dismissal") should be entered and further finds that there is no
 15 just reason for delay in the entry of Judgments, as Final Judgments, in accordance with the terms
 16 of the Settlement Agreement.

17 Accordingly, the Clerk is hereby directed to enter Judgments forthwith for the Released
 18 Defendants.

19
 20 IT IS SO ORDERED.

21
 22
 23 Dated: 9/23/13

24 
 25 Hon. Richard Seeborg
 26 United States District Judge
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